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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,337	02/25/2004	Jose Gryspeerdt	17550	4562

26637 7590 08/25/2004

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
700 STATE STREET
RACINE, WI 53404

EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,337

Applicant(s)

GRYSPEERDT ET AL.

Examiner

Nathan S Mammen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/25/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0357090 patent publication in view of U.S. Patent No. 4,637,406 to Guinn et al.

The EP '090 patent publication discloses a combine harvester having at its rear end separate chaff and crop residue discharge openings. The harvester has a chopper (3) for cutting crop residue into small pieces and a chaff discharge device (7) for dispersing chaff exiting from the chaff discharge opening. The chaff discharge device is movable between a first position (Figs. 3 and 4) in which chaff can fall to the ground without passing through the chaff discharge device and a second position (Figs. 1 and 5) in which the chaff passes through the chaff discharge device and is dispersed laterally away from the combine. What the EP '090 patent does not disclose is that the chaff discharge device has a third position in which the chaff is directed to enter the chopper through an opening that is different than the opening through which the crop residue enters the chopper. The Guinn '406 patent teaches that it is known in the art to provide a chaff discharge device with an arrangement in which the chaff enters the chopper from an opening different than the opening through which the crop residue enters the chopper (see Fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the combine harvester of the EP '090 patent publication with a chaff

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discharge device having a position in which the chaff enters the chopper, as taught by the Guinn '406 patent, in order to be able to further chop and mix the chaff with the chopped crop residue.

Regarding claims 2 and 3: The chaff discharge device of the EP '090 patent is a spreader capable of spreading the crop residue in addition to the chaff (Fig. 1). When the chaff discharge device is in the first position (Figs. 3 and 4), the device permits access to the chaff discharge opening.

Regarding claim 4: The Guinn '406 patent discloses that a flap (18) directs the chaff into the chopper, but the Guinn patent does not disclose that the flap is hinged. However, in view of the disclosure of the EP '090 patent, it would be obvious to one having ordinary skill in the art to provide the flap (18) on a hinge, since the EP '090 patent discloses that hinged flaps (see EP '090 – reference #4) allows increased control over crop residue flow.

Conclusion

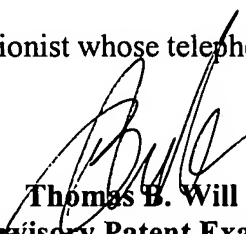
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
8/21/04

Nathan S. Mammen